

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 746 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

RAMESHJI BHAVANJI THAKOR (RATHOD)

Versus

STATE OF GUJARAT

Appearance:

MR MC BAROT for Petitioner

MR KT DAVE AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 15/03/2000

ORAL JUDGEMENT

#. District Magistrate, Banaskantha at Palanpur passed an order on April 11, 1999 in exercise of powers under Section 3 (1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act" for short), detaining the petitioner-detenuue under the provisions of the PASA

Act.

#. The detaining authority took into consideration 12 offences registered against the detainee. The last offence for which the detainee was booked is Deodar Police Station CR No. 142/98, which relates to an offence dated 3rd/4th December, 1998, wherein the detainee was arrested on 4.2.99 and was released on bail on February 6, 1999. The petitioner is branded as a "dangerous person" and has been detained under the PASA Act in order to immediately preventing him from pursuing his illegal and anti-social activities.

#. The petitioner has challenged the detention mainly on the ground of delay in passing the order.

#. Mr. Barot, learned advocate appearing for the petitioner submitted that the petitioner was lastly arrested on 4th February, 1999 and released on bail on February 6, 1999, whereas the order is passed on April, 11, 1999 after a lapse of about two months. In between, there is no involvement of the petitioner in any illegal activities. It is also stated that the last offence for which the petitioner is book is relating to 3rd/4th December, 1998. Thereafter there is nothing to indicate any involvement of the petitioner in any offence and as such, in the absence of causal connection, the order is passed. The detention is, therefore, vitiated and the same may be quashed and set aside.

#. Mr. K.T.Dave, learned AGP has opposed this petition. According to him, the delay is not unreasonable as procedure is required to be followed in the government machinery and the petition may, therefore, be dismissed.

#. Considering the rival side contentions, factually there is no dispute about the fact that subsequent to 3rd/4th December, 1998, there is no allegation of any involvement of the petitioner in any criminal activity till the passing of the order on 11th April, 1999. The detaining authority is aware that the petitioner is at large since 6th February, 1999. Here, again there is no allegation of any criminal activity on the part of the detainee after 6th February, 1999 and as such, in the absence of any continued activity, the order of detention could not have been passed as it lacks causal connection. The grounds are stale and there appears not, any urgency for resorting to detention under the PASA Act for "immediately" preventing the petitioner-detainee from pursuing his activities. The order stands vitiated on

this ground as this aspect has not been considered by the detaining authority. The petition therefore, deserves to be allowed.

#. The present petition is allowed. The impugned order of detention dated April 11, 1999 is hereby quashed and set aside. The detenue - Rameshji Bhavanji Thakor (Rathod) is ordered to be set at liberty forthwith, if not required in any other matter. Rule is made absolute with no order as to costs.

[A.L. DAVE, J.]

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